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Memorandum

To: Vail Town Council

From: Vail Local Housing Authority
George Ruther, Director of Housing

Date: May 15, 2018

Subject: Town of Vail Annual Resale Lottery Criteria Process – VLHA recommendation to Vail Town Council

I. Purpose of this Memorandum

The Vail Town Council requested that the Vail Local Housing Authority and the Housing Department review the existing Town of Vail annual resale lottery criteria process and recommend options for amendments, improvements and enhancements. The goals and objectives of the effort are to:

- Improve efficiency (ie. cost) and effectiveness (ie. time) of the lottery process for both the Town and the applicants.
- Ensure consistency, predictability and fairness in the process.
- Increase alignment between the annual lottery processes with the Town's housing policies and objectives.
- Reinforce emphasis on creating housing opportunities to maintain and sustain community; not just workforce.
- Improve the opportunity for participation in the lottery amongst all persons eligible to own a deed-restricted home in Vail.
- The opportunity to own deed-restricted housing in Vail is at the core of maintaining and sustaining community.
- Increase participation and opportunity in the lottery selection process.

The purposes of this memorandum are four-fold:

- 1) share the adopted Town of Vail Annual Resale Lottery Criteria Process,
- 2) summarize the Vail Town Council member's feedback from the public meeting held on April 17th,

- 3) present the recommendation of the Vail Local Housing Authority for amendments, improvements and enhancements to the criteria and lottery process consistent with the goals and objectives outlined above, and
- 4) outline the next steps for implementation of an amended process once adopted by the Vail Town Council.

It should be noted that the topic of discussion of this memorandum focuses on the eligibility to participate in the resale lottery process. The topic of discussion is not intended to focus on the terms of the Town's deed-restrictions themselves. Once eligibility for participation in the lottery is addressed and depending upon the final outcomes, additional discussion regarding the terms of the deed-restrictions themselves may be needed.

II. Existing Annual Resale Lottery Process and Criteria

The Town of Vail Housing Department conducts an annual resale lottery selection process to determine eligibility to bid and purchase for-sale deed-restricted employee housing units which may become available for purchase in the coming calendar year. This lottery selection process occurs the first week of June, annually. The procedures for the Town's annual resale lottery process are outlined in the Town of Vail Employee Housing Guidelines, adopted October 10, 1999. By and large, and specifically as it relates to the lottery process, the Guidelines have remained unchanged since their original adoption nearly twenty years ago.

The Housing Department routinely receives feedback from annual resale lottery participants about the process. Unfortunately, not all of the feedback is positive. Some of the more frequently shared negative feedback includes comments regarding the following:

- Participants must meet the deed-restriction criteria at the time of application instead of the time of purchase.
- Household size requirements limit home purchase options and simply ignore future changes in lifestyle or family sizes.
- Telecommuting and other forms of "*work from home*" employment is not allowed.
- The weighted preference system limits participation and prevents persons from moving back into Town.
- The tiered system conflicts with and is counter to the weighted preference system.
- The entire process is time consuming, costly, inefficient, and nonresponsive to changes during the past 20 years.
- The current process is anything but a true lottery and discourages participation.
- Persons that currently own a home or a vacant residential lot in Eagle County can not participate.

The following table indicates the number of annual resale lottery participants and number of annual resales occurring during the six-year period of time from 2012 to 2017.

Annual Resale Lottery Participation and Sales Statistics Years 2012 to 2017

<u>Year</u>	<u># Participants</u>	<u># of Annual Resales</u>
2012	3	1
2013	9	2
2014	12	4
2015	28	7
2016	31	3
<u>2017</u>	<u>16</u>	<u>3</u>
Avg.	17	3

A copy of the Resale Lottery Criteria is outlined below:

Resale Lottery Criteria

- A. There are six basic eligibility requirements which must be met prior to an individual submitting a bid to purchase an employee-housing unit.
1. The applicant must intend to use the unit as his/her primary residence and maintain it as his/her primary residence in the future.
 2. The applicant must be currently employed at a business located within Eagle County which holds a business license with the appropriate jurisdiction (Town of Vail, Town of Avon, etc.), must be employed an average of 30 hours each week on an annual basis, and must maintain this level of employment for as long as he or she owns the unit.
 3. The applicant must demonstrate that at least 75% of his/her income and earnings are earned by working at a licensed Eagle County business.
 4. Neither the applicant nor any member of the applicant's immediate family (including, but not limited to, spouse and children under 18 years of age) may own residential real estate in Eagle County at the time of application, except where that real estate is deed restricted as a Town of Vail employee housing unit with a resale appreciation cap. A current residence may not be deeded to a corporation or other entity in order to qualify the applicant for a Town of Vail deed restricted unit.
 5. The applicant must be prequalified with a mortgage lender.
 6. For all Town of Vail deed restricted three bedroom units, the applicant must have a household size of 3 or more persons. For the purposes of determining household size, applicants may include all persons related to the applicant by blood, marriage, or adoption. If the applicant plans to include dependents, they must be continuously listed on federal income tax forms and reside in the household at least six months

and one day out of every 12 month period of time. A pregnancy may be counted towards the family size requirement as long as a note from an Eagle County doctor is provided.

- B. Once basic eligibility has been met, the qualified person(s) submitting the highest bid price (not to exceed the maximum bid price) during a bidding period shall have the first right to negotiate purchase of the unit. If two or more qualified bids are submitted at the highest bid price, they shall receive preference and be prioritized for selection as the top bidder based on the highest score using the criteria listed below. Each year of residency and employment in Eagle County will count as one point in determining the total score. Additional points will be determined as follows:

1. All current years of employment in Vail shall be weighted at 3:1 over years of employment in Eagle County.
2. All current years of residency in Vail shall be weighted at 3:1 over years of residence in Eagle County.
3. All years of residency and/or employment prior to a leave from Eagle County shall be given points at a 1:1 ratio regardless of location of residency or employment within Eagle County.

C. Notes:

1. The physical place of residence and employment is what counts, not the mailing address.
2. Employment physically located on Vail Mountain shall be considered inside the Town of Vail.
3. Employment requiring work to be completed at locations "on-site" throughout Eagle County (e.g., construction sites) shall be considered outside the Town of Vail.
4. Seasonal work and part time work shall be counted on a pro-rata basis. Seasonal work and part time work alone may not be adequate to meet the 30 hours/week average *annual* requirement. This type of work *may* need to augment other employment to meet the minimum eligibility.
5. For the purposes of determining the standing of each applicant, each year of residency (or employment) reflects one point. For the portion of time in excess of a complete year, the Town will round to the next highest number if the time exceeds six months and one day. If the time is less than six months, the Town will round down.
6. If two individuals are applying jointly, the years of employment and/or residency shall not be combined. The single individual with the longest record of employment and/or residency shall use his or her record for the purposes of determining longevity.
7. Persons who own residences located in Vail or Eagle County at the time of the application deadline are not eligible.

8. All claims will be verified by Town of Vail staff. Claims of residence or employment that do not check out or are un-verifiable will not be counted in determining your longevity.
 9. If there is a sole applicant in the top tier of the lottery, the scheduled lottery will not be conducted and the unit will be awarded to the top tier applicant. A drawing to establish the reserve list will be held in the Housing Development office during regular business hours and shall be witnessed by the Town Clerk.
 10. The application and any accompanying documentation shall become the property of the Town of Vail and will not be returned to the applicant.
- D. For all resales of existing Town of Vail deed restricted units, a permanent reserve lottery list will be used. The reserve list will be created using the exact same criteria outlined above.
1. The first person on the list will be offered the unit available for resale. If that person chooses not to take the unit, they will be dropped to the end of the list and the next person will have the option to purchase the available unit and so on, until a buyer is found.
 2. The list will be updated by an annual lottery.
 3. Separate reserve lists will be created for two bedroom and three bedroom units.

III. Vail Town Councilmember Feedback

The Vail Town Council held a public hearing on April 17, 2018, to discuss opportunities to amend, improve and enhance the annual resale lottery process. This hearing was the third of three such hearings hosted by the Town Council on this topic in the past 18 months. Following a presentation by town staff, input from the Vail Local Housing Authority, public participation, and discussion amongst town council members, the consensus of the Vail Town Council members and instruction to town staff included the following:

- Simpler is better.
- The 20-plus year old, weighted and tiered, lottery system should be updated and replaced.
- No changes to the deed-restrictions regarding annual hours of employment, income, legitimacy of business, etc. were requested.
- The family size requirement should be eliminated.
- An interested purchaser resale lottery participant list should be established and maintained by the Housing Department.
- A separate and individual home specific lottery selection process should be implemented.
- Minimum qualifications for participating in a lottery include:
 - Participation in a town or county-sponsored homebuyer education class
 - Signed acknowledgement of intent to comply with the terms of the subject deed restriction if selected to purchase.

- Pre-qualification from a lender establishing the financial ability to purchase said property.
- Amend Resale Lottery Criteria #4 and #5. Specifically, the Town Council members asked to have the language prohibiting the applicant or any member of the applicant's immediate family from owning residential real estate in Eagle County "at the time of application" amended to state "at the time of closing". Secondly, the applicant must be prequalified with a mortgage lender "at the time of closing" rather than "the time of application".
- The Town Council agreed with the recommendation of the Vail Local Housing Authority with the following changes:
 - A weighted form of preference is more appropriate. The lottery needs to allow all participants a chance of being selected. Thus, implement a lottery process that allows a chance for any applicant to be selected, yet grants increased probability of selection to applicants having demonstrated longevity of living and/or working in Vail. The number of prior years of lottery participation was not relevant.
- There was not consensus among Town Councilmembers on the ability to participate in a lottery and purchase a deed-restricted if the applicant presently owns free-market residential property in Eagle County, yet was agreeable to deed-restricting said property if selected for purchase in the lottery. More Town Council and VLHA discussion on the trade-offs of this option is needed.
 - Potential trade-offs include:
 - Public perception of "double-dipping" into town provided subsidies
 - Zero sum gain of resident occupied dwellings
 - Subsidy vs. no additional subsidy
 - One time lump sum payment vs. multiple payments over time
 - Competing housing policies, goals and objectives

To facilitate the discussion, it may be helpful for the Town Council to provide answers to the following questions:

- 1) As a housing policy, how important/relevant is it that the Town implements measures to protect and preserve existing resident occupied, non-deed-restricted dwellings in the event the current owner has an opportunity to purchase a town-sponsored, deed-restricted dwelling?
- 2) If deemed important/relevant, how is this policy best implemented? (i.e., purchase a deed restriction, allow multiple ownership, etc.)

IV. Vail Local Housing Authority Recommendation

Following careful and thoughtful review of the Town's annual resale lottery criteria and selection process the Vail Local Housing Authority finds that amendments, improvements and enhancements are needed to realize the goals and objectives for housing in Vail. To be successful, the resale lottery criteria and selection processes must be aligned with Town's goals and objectives for housing. In the minds of the Authority, in the absence of alignment, it is

unlikely that the Town will realize its desired results when it comes to housing in the community. To that end, the Vail Local Housing Authority has reviewed the current criteria and recommends that Vail Town Council authorizes the Housing Department staff to pursue revisions to the current criteria and lottery by taking action on the following:

1. Clearly define and adopt goals and objectives for the Town's lottery criteria and process.
2. Allow current residential property owners, including vacant residential land, to participate in the lottery with the understanding that they must either 1) deed-restrict their current residential property for employee housing, subject to Town Council approval, or, 2) dissolve their interest in the real estate prior to closing on the new deed-restricted property.
3. Phase out the weighted preference and tiered system and replace it with a true lottery process with preference, effective July, 2018. As an alternate option, replace the current system with a point system of preference that increases the probability that certain categories of persons (i.e., Vail residency, Vail business employee) are selected over another, yet still maintains an opportunity for all participating to be selected.

To that end, the Vail Local Housing Authority recommends the following point system:

▪ Meet minimum lottery participation criteria =	1 lottery ticket
▪ Vail resident =	1 lottery ticket
▪ Vail resident for equal to or greater than 10 years =	1 lottery ticket
▪ Employed in Vail =	1 lottery ticket
▪ Employed in Vail for equal to or greater than 10 years =	<u>1 lottery ticket</u>
Maximum Total	5 lottery ticket

Lottery ticket eligibility is determined as of the date of the lottery drawing. All tickets are placed in the tumbler at the time of the drawing selection. All tickets will be drawn from the tumbler to create an order of purchase priority.

The Vail Local Housing Authority recommended this point system process for the following reasons:

- Increased statistical probability of selection for those applicants having demonstrated longevity of residency and employment in Vail.
- Grants an appropriate amount of increased probability to affect the outcome yet does not grant so much that otherwise discourages participation.
- Increased efficiency and effectiveness of applicant and staff time, resources and money.
- Ease of implementation and administration.
- Ensures every applicant an opportunity of being selected to purchase a home.

- Furthers the adopted goals and objectives identified for the process.
- 4. Replace the annual lottery process with an individual and separate process for each home when it becomes available for purchase. This improves efficiency and effectiveness as lottery participants are only participating in lotteries for home types they wish to purchase
- 5. Eliminate the minimum household size requirements and thereby acknowledge the changes in lifestyle or family size that occur over time.
- 6. Simplify and streamline the application submittal process and minimize, to the extent possible, the materials required for participation to increase participate numbers and be more cost effective and efficient.
- 7. Prepare an administrative process for demonstrating eligibility and compliance with the terms of the deed-restriction and the employee housing guidelines. Currently, there is no prescribed process for administrative determination. Inevitably, however, as the Town's housing programs grow, situations and circumstances will arise whereby a determination will be needed. To ensure effectiveness and sound decision-making occur, criteria for consideration should be established and adopted to grant exceptions. It is likely most appropriate that the Vail Local Housing Authority, as an impartial five member authority appointed by the Vail Town Council, and not the Housing Department staff, be the entity which hears, evaluates and renders decisions in the administrative process. Examples of where this process would be most useful are when making determinations of legitimate business, employment, residency/occupancy, income generation, etc.

V. Next Steps

The Vail Local Housing Authority and the Housing Department staff are prepared to work through the details of implementing the amendments described herein. With Town Council direction, the Authority and the staff will return to the Town Council meeting on June 5, 2018 with more detailed proposals on how best to implement:

- 1) a point-based system for lottery participation,
- 2) a lottery process which is more streamlined and home type specific, and
- 3) an administrative process for making determinations of eligibility and compliance based unique situations and special circumstances.

A new process can be in place effective July 4, 2018. Until that time, the 2017/2018 Resale Lottery List will remain in effect.